

Regular Session, 2010

HOUSE BILL NO. 1171

BY REPRESENTATIVES TUCKER, ARNOLD, AUSTIN BADON, HENRY BURNS,
TIM BURNS, CARMODY, CARTER, CHAMPAGNE, CONNICK, DOVE,
GISCLAIR, HARDY, HINES, HOFFMANN, KATZ, LABRUZZO, LIGI,
ROBIDEAUX, SIMON, SMILEY, WILLIAMS, AND WOOTON AND
SENATORS APPEL, DONAHUE, DUPLESSIS, MARTINY, AND QUINN

COLLEGES/UNIVERSITIES: Provides for a Board of Regents program under which
postsecondary institutions agree to achieve certain standards in exchange for
authority to increase tuition and for exemption from certain limitations

1 AN ACT

2 To amend and reenact R.S. 17:3386(A) and (D) and to enact R.S. 17:3139 and 3386(E),
3 relative to public postsecondary education; to provide for the Louisiana Granting
4 Resources and Autonomy for Diplomas Act; to provide for performance agreements
5 between the Board of Regents and public postsecondary education institutions; to
6 provide for the effectiveness, review, revocation, and renewal of such agreements;
7 to provide for autonomies granted to institutions that enter into such agreements; to
8 require specified performance objectives to be met as part of such agreements; to
9 provide for monitoring and reporting by the Board of Regents; to exempt certain
10 institutions from requirements relative to the use of surplus funds and the carrying
11 forward of certain state general funds; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 17:3386(A) and (D) are hereby amended and reenacted and
14 R.S. 17:3139 and 3386(E) are hereby enacted to read as follows:

1 §3139. Louisiana Granting Resources and Autonomy for Diplomas Act; purpose;
2 agreements; monitoring and renewal; reporting

3 A. Title. This Act shall be known and may be cited as the "Louisiana
4 Granting Resources and Autonomy for Diplomas Act".

5 B. Purpose. The purpose of this Section is to support the state's public
6 postsecondary education institutions in remaining competitive and increasing their
7 overall effectiveness and efficiency by providing that the institutions achieve
8 specific, measurable performance objectives aimed at improving college completion
9 and at meeting the state's current and future workforce and economic development
10 needs and by granting the institutions limited operational autonomy and flexibility
11 in exchange for achieving such objectives.

12 C. Performance agreements; objectives. Effective beginning with the 2011
13 Fiscal Year, any public postsecondary education institution may enter into an initial
14 performance agreement with the Board of Regents in order to be granted limited
15 operational autonomy and flexibility as provided in Subsection F of this Section in
16 exchange for committing to meet all of the following performance objectives as
17 applicable to the institution as determined by the Board of Regents:

18 (1) Student success. (a) Implement policies established by the institution's
19 management board to achieve cohort graduation rate and graduation productivity
20 goals that are consistent with institutional peers. For purposes of this Section, peer
21 institutions shall mean those institutions as defined by the Board of Regents in
22 accordance with R.S. 17:3351(A)(5)(e)(i).

23 (b) Increase the number of program completers at all levels each year.

24 (c) Develop partnerships with high schools to prepare students for
25 postsecondary education.

26 (d) Increase passage rates on licensure and certification exams and
27 workforce foundational skills.

1 (2) Articulation and transfer. (a) Phase-in increased admission standards
2 and other necessary policies by the end of the 2012 Fiscal Year in order to increase
3 student retention and graduation rates.

4 (b) Provide feedback to community colleges and technical college campuses
5 on the performance of associate degree recipients enrolled at the institution.

6 (c) Develop partnerships with community colleges and technical college
7 campuses to admit students who initially fail to qualify for admission into the
8 institution after they have earned an associate degree from a community college or
9 technical college campus.

10 (d) Demonstrate collaboration in implementing the articulation and transfer
11 requirements as provided in R.S. 17:3161 through 3169.

12 (3) Workforce and economic development. (a) Eliminate academic program
13 offerings that have low student completion rates and are not aligned with current or
14 strategic workforce needs of the state, region, or both as identified by the Louisiana
15 Workforce Commission.

16 (b) Increase the use of technology for distance learning to expand
17 educational offerings.

18 (c) Increase research productivity especially in key economic development
19 industries and technology transfer at institutions to levels consistent with the
20 institution's peers.

21 (d) Demonstrate progress in increasing the number of students placed in jobs
22 and in increasing the performance of associate degree recipients who transfer to
23 institutions that offer academic undergraduate degrees at the baccalaureate level or
24 higher.

25 (4) Institutional efficiency and accountability. (a) Eliminate remedial
26 education course offerings and developmental study programs unless such courses
27 or programs cannot be offered at a community college in the same geographic area.

28 (b) Eliminate associate degree program offerings unless such programs
29 cannot be offered at a community college in the same geographic area.

1 (c) Upon entering the initial performance agreement, adhere to a schedule
2 established by the institution's management board to increase nonresident tuition
3 amounts that are not less than the average tuition amount charged to Louisiana
4 residents attending peer institutions in other Southern Regional Education Board
5 states and monitor the impact of such increases on the institution. However, for each
6 public historically black college or university, the nonresident tuition amounts shall
7 not be less than the average tuition amount charged to Louisiana residents attending
8 public historically black colleges and universities in other Southern Regional
9 Education Board states.

10 (d) Designate centers of excellence as defined by the Board of Regents
11 which have received a favorable academic assessment from the Board of Regents
12 and have demonstrated substantial progress toward meeting the following goals:

13 (i) Offering a specialized program that involves partnerships between the
14 institution and business and industry, national laboratories, research centers, and
15 other institutions.

16 (ii) Aligning with current and strategic statewide and regional workforce
17 needs as identified by the Louisiana Workforce Commission and Louisiana
18 Economic Development.

19 (iii) Having a high number of graduates or completers each year as compared
20 to the state average number of graduates and that of the institution's peers.

21 (iv) Having a high number of graduates or completers who enter productive
22 careers or continue their education in advanced degree programs, whether at the
23 same or another institution.

24 (v) Having a high level of research productivity and technology transfer.

25 (5) Submit a report to the Board of Regents, the legislative auditor, and the
26 legislature containing certain organizational data, including but not limited to the
27 following:

28 (a) Number of students by class.

29 (b) Number of instructional staff members.

1 (c) Average class student-to-instructor ratio.

2 (d) Average number of students per instructor.

3 (e) Number of non-instructional staff members in academic colleges and
4 departments.

5 (f) Number of staff in administrative areas.

6 (g) The institution's organization chart containing all departments and
7 personnel in the institution down to the second level of the organization below the
8 president, chancellor, or equivalent position.

9 (h) Salaries of all personnel identified in Subparagraph (g) of this Paragraph
10 and the date, amount, and type of all increases in salary received since June 30, 2008.

11 (i) Any additional data requested by the speaker of the House of
12 Representatives or the president of the Senate.

13 (6) Any additional performance objectives as determined by the Board of
14 Regents.

15 (7) Any performance objectives defined in the formula funding performance
16 model adopted by the Board of Regents for Fiscal Year 2010-2011 shall be aligned
17 with performance objectives defined in Subsection C of this Section.

18 D. Annual review; revocation. The initial performance agreement and each
19 subsequent agreement shall be a six-year agreement and shall be reviewed annually
20 by the Board of Regents. The Board of Regents may revoke an agreement at any
21 time if it determines that an institution has failed to abide by the terms of the
22 agreement.

23 E. Legislative auditor; performance analysis. Prior to entering an agreement
24 pursuant to this Section, an institution shall provide to the legislative auditor all
25 information that the auditor requests to conduct a detailed study of the performance
26 of postsecondary education in Louisiana. The institutions shall provide information
27 that will allow the auditor to analyze how well goals and objectives of postsecondary
28 education are being met and to perform an economy and efficiency study. Such
29 information shall include but shall not be limited to information relative to staffing

1 levels, hiring and compensation practices, employee productivity and discipline, and
2 performance management.

3 F. Autonomies granted. Upon meeting the performance and reporting
4 objectives as specified in Subsection C of this Section, each institution that enters
5 into an agreement as provided in this Section shall be granted all of the following:

6 (1) The authority to:

7 (a) Increase tuition and fee amounts by up to ten percent annually, without
8 legislative approval, until the institution reaches the average tuition and fee amounts
9 of its peer institutions. The incremental tuition and fee amount increase shall be
10 weighted in such a manner that the median household income in Southern Regional
11 Education Board states in which respective peer institutions are located is compared
12 with the median household income in Louisiana, and any differences between the
13 average of the states be factored into the allowable tuition and fee amount increase.

14 (b) Upon reaching the average tuition and fee amounts as specified in
15 Subparagraph (a) of this Paragraph, increase tuition and fee amounts as necessary to
16 maintain tuition and fee amounts as close to that average as practical.

17 (2) A base level of operational autonomy as determined by the Board of
18 Regents subject to the approval by the division of administration which, at a
19 minimum, shall include greater flexibility in:

20 (a) Carrying forward unexpended and unobligated funds from one fiscal year
21 to the next.

22 (b) Procuring information technology products and services.

23 (c) Adhering to state travel regulations.

24 (3) The Board of Regents, in collaboration with the division of
25 administration, shall identify additional operational autonomies, including but not
26 limited to exceptions from procurement and construction regulations. However, no
27 exception from any provision of the Louisiana Procurement Code or from Chapter
28 10 of Title 38 of the Louisiana Revised Statutes of 1950 shall be granted, and, unless
29 specifically authorized by the legislature, no design-build contract shall be

1 authorized pursuant to this Paragraph. The Board of Regents may grant such
2 autonomies to an institution during the initial agreement period if all of the following
3 are met:

4 (a) After three years, the institution has achieved a sufficient number of the
5 performance objectives provided in Subsection C of this Section as determined by
6 the Board of Regents.

7 (b) The institution has demonstrated the ability to successfully operate with
8 the base levels of autonomies granted by this Section as determined by the Board of
9 Regents.

10 G. Monitoring; reporting; renewal. (1) The Board of Regents annually shall
11 monitor and report to the legislature and the governor on each participating
12 institution's progress in meeting the performance objectives as specified in
13 Subsection C of this Section. At the end of the initial agreement period and each
14 subsequent agreement period, the Board of Regents shall determine whether to
15 recommend renewal of an institution's performance agreement. Such determination
16 shall be based on the recommendations of a review panel established by the Board
17 of Regents to conduct a comprehensive review and evaluation of the institution's
18 progress in meeting the performance objectives. The composition of the review
19 panel shall be the same as is provided in R.S. 17:3138(C) with the addition of two
20 representatives from the business community, who each possess a postsecondary
21 degree, one recommended by the speaker of the House of Representatives and one
22 recommended by the president of the Senate. The Board of Regents shall submit to
23 the Joint Legislative Committee on the Budget the name of any institution for which
24 the Board of Regents recommends renewal of the agreement. If the Joint Legislative
25 Committee on the Budget agrees that an agreement with an institution should be
26 renewed, it shall make such recommendation to the legislature. No agreement shall
27 be renewed without final approval being granted by the legislature through adoption
28 of a concurrent resolution granting such approval. The legislature may approve
29 renewal of agreements only for institutions that have been recommended for

1 agreement renewals by the Board of Regents and the Joint Legislative Committee on
2 the Budget in accordance with this Paragraph.

3 (2) If an institution's initial performance agreement is renewed for a second
4 six-year period, the institution in exchange shall:

5 (a) Further increase cohort graduation rate goals as specified in
6 Subparagraph (C)(1)(a) of this Section including the following, as applicable:

7 (i) A graduation rate of at least seventy-five percent for any institution
8 classified as a "Four-Year 1" institution by the Southern Regional Education Board.

9 (ii) A graduation rate of at least sixty percent for any institution classified
10 as a "Four-Year 2" institution by the Southern Regional Education Board.

11 (iii) A graduation rate of at least fifty percent for any institution classified
12 as a "Four-Year 3", "Four-Year 4", or "Four-Year 5", institution by the Southern
13 Regional Education Board.

14 (iv) For any community college and technical college campus, a graduation
15 rate that is at least equal to the Southern Regional Education Board average for peer
16 institutions.

17 (b) Continue to make progress in meeting all other performance objectives
18 as contained in the initial agreement.

19 (c) Meet any additional performance objectives as determined by the Board
20 of Regents.

21 (3) If an institution's performance agreement is renewed for subsequent
22 periods following the first renewal period, the institution in exchange shall:

23 (a) Maintain the same graduation rates as specified in Paragraph (2) of this
24 Subsection.

25 (b) Continue to make progress in meeting all other performance objectives
26 as contained in the initial agreement.

27 (c) Meet any additional performance objectives as determined by the Board
28 of Regents.

1 H. Certification of agreement by management board. Any agreements
2 between the Board of Regents and public postsecondary education institutions
3 authorized by the Louisiana Granting Resources and Autonomy for Diplomas Act
4 shall be certified by the respective management boards of those institutions.

5 * * *

6 §3386. Surplus funds; retention; use; exceptions

7 A. ~~Any~~ Except as otherwise provided by this Section, any public college or
8 university or any consortium of colleges and universities which adopts a building and
9 facility preventative maintenance program approved by the Board of Regents may
10 retain any funds appropriated or allocated to such college, university, or consortium
11 thereof from the state general fund which remain unexpended and unobligated at the
12 end of the fiscal year, provided that not less than fifty percent of such retained funds
13 shall be maintained by the college, university, or consortium thereof in a
14 preventative maintenance reserve fund. ~~Monies fund, and the monies~~ from such
15 reserve fund shall be used solely for preventative maintenance purposes in
16 accordance with the approved plan. Retained funds shall ~~only be spent~~ be spent only
17 on nonrecurring projects and such expenditures are subject to approval by the
18 appropriate ~~higher~~ postsecondary education management board, the Board of
19 Regents, and the Joint Legislative Committee on the Budget. Such expenditures
20 shall be contained in a report submitted to the Board of Regents no later than
21 September fifteenth.

22 * * *

23 D. ~~No~~ Except as otherwise provided by this Section, no public ~~higher~~
24 postsecondary education institution as provided in Subsection A of this Section may
25 carry forward more than two percent of its prior fiscal year's state general fund
26 appropriation or allocation under the provisions of Subsections A and B of this
27 Section.

28 E. The provisions of this Section requiring at least fifty percent of retained
29 funds to be maintained in a reserve fund and used only for preventative maintenance

1 purposes and prohibiting more than two percent of certain state general fund
2 appropriations or allocations from being carried forward shall not apply to any public
3 postsecondary education institution entering into a performance agreement pursuant
4 to R.S. 17:3139 if the agreement so provides.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Tucker

HB No. 1171

Abstract: Provides for the La. GRAD Act. Provides for a Board of Regents program under which postsecondary institutions agree to achieve certain standards in exchange for authority to increase tuition and for exemption from certain limitations.

Proposed law provides for the La. Granting Resources and Autonomy for Diplomas Act as follows:

Performance agreements and objectives. Authorizes public postsecondary education institutions to enter into initial performance agreements with the Board of Regents in order to be granted limited operational autonomy and flexibility in exchange for committing to meet performance objectives as applicable to the institution. Such objectives are categorized relative to student success, articulation and transfer, workforce and economic development, and institutional efficiency and accountability and generally include graduation rate and graduation productivity goals, increasing admission standards, eliminating academic program offerings that have low student completion rates, increasing research productivity and technology, eliminating remedial education course offerings, demonstrating progress in placing students in jobs, increasing nonresident tuition amounts, designating centers of excellence, and reporting organizational data. Requires performance objectives defined in the formula funding performance model adopted by the Board of Regents for FY 2010-2011 to be aligned with performance objectives defined in proposed law.

Annual review and revocation. Provides that the initial performance agreement and each subsequent agreement shall be a six-year agreement and shall be reviewed annually by the Board of Regents. Authorizes the board to revoke an agreement at any time if it determines that an institution has failed to abide by the terms of the agreement.

Legislative auditor performance analysis. Prior to entering an agreement pursuant to proposed law, requires an institution to provide to the legislative auditor all information that the auditor requests to conduct a detailed study of the performance of postsecondary education in La. Requires submission of information that will allow the auditor to analyze how well goals and objectives of postsecondary education are being met and to perform an

economy and efficiency study including information relative to staffing levels, hiring and compensation practices, employee productivity and discipline, and performance management.

Autonomies granted. Provides that upon meeting the performance objectives, each institution that enters into an agreement shall be granted specified autonomies and flexibilities relative to increasing tuition and fee amounts without legislative approval, carrying forward unexpended and unobligated funds, procurement of information technology products and services, and state travel regulations. Provides that the Board of Regents, in collaboration with the division of administration, shall identify additional operational autonomies including limited exceptions from procurement and construction regulations, to be granted to an institution during the initial agreement period if certain conditions are met as specified in proposed law.

Monitoring, reporting, and renewal. Provides that the Board of Regents annually shall monitor and report to the legislature and the governor on each participating institution's progress in meeting the performance objectives. Provides for a determination by the board as to whether to recommend renewal of an institution's performance agreement based on the recommendations of a review panel established by the board to be composed of the same membership as the Postsecondary Education Review Commission (present law, R.S. 17:3138) with the addition of two representatives from the business community, who each possess a postsecondary degree, one recommended by the speaker of the House of Representatives and one recommended by the president of the Senate. Requires the board to submit agreement renewal recommendations to the Joint Legislative Committee on the Budget and provides that the committee make recommendations to the legislature under certain circumstances. Makes agreement renewals contingent upon legislative approval and limits renewals to only those institutions that have been recommended for such by the board and the committee. Specifies further objectives to be met by an institution if its agreement is renewed including further increasing cohort graduation rate goals.

Certification of agreement by management board. Requires that any agreements authorized by proposed law shall be certified by the respective management boards.

Present law, relative to the use of surplus funds by public postsecondary education institutions, allows such institutions to retain any state general funds appropriated or allocated which remain unexpended and unobligated at the end of the fiscal year, provided that not less than 50% of such retained funds be maintained in a preventative maintenance reserve fund. Provides that such monies shall be used solely for preventative maintenance purposes and shall only be spent on nonrecurring projects. Prohibits an institution from carrying forward more than 2% of its prior fiscal year's state general fund appropriation or allocation.

Proposed law retains present law but exempts institutions entering into a performance agreement pursuant to proposed law from the requirement that at least 50% of retained funds to be maintained in a reserve fund and used only for preventative maintenance purposes and the prohibition on more than 2% of certain state general fund appropriations or allocations being carried forward.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 17:3386(A) and (D); Adds R.S. 17:3139 and 3386(E))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Requires that the admission standards and other policies to increase retention and graduation rates be phased in by the end of the 2012 Fiscal Year.
2. Deletes authority to impose tuition and fee charges on a student credit hour basis.
3. Changes the requirement that institutions achieve cohort graduation rate goals consistent with institutional peers to a requirement that they implement policies to achieve graduation rate and graduation productivity goals that are consistent with institutional peers.
4. Relative to eliminating academic programs with low completion rates that are not aligned with workforce needs, changes "academic programs" to "academic program offerings" and specified that the workforce needs shall be as identified by the La. Workforce Commission.
5. Relative to remedial education course offerings, developmental study programs, and associate degree programs, requires elimination rather than phase out.
6. Relative to adhering to an established nonresident tuition schedule, adds that such adherence shall be required upon entering the initial performance agreement.
7. Specifies that institutions shall be granted proposed law autonomies upon meeting the performance objectives.

Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill.

1. Requires performance objectives defined in the formula funding performance model adopted by the Board of Regents for FY 2010-2011 to be aligned with performance objectives defined in proposed law.
2. Requires the postsecondary institution to provide information to the legislative auditor for the auditor to conduct a detailed study of the performance of postsecondary education in La., prior to entering an agreement pursuant to proposed law.
3. Adds two representatives from the business community, who each possess a postsecondary degree, one recommended by the speaker of the House of Representatives and one recommended by the president of the Senate to the group which will recommend to the board whether to renew an institutions performance agreement.
4. Requires that any agreements between the Board of Regents and public postsecondary education institutions authorized by proposed law must be certified by the respective management boards of those institutions.

House Floor Amendments to the reengrossed bill.

1. Relative to the objective of increasing nonresident tuition amounts, adds that for historically black colleges and universities, the nonresident tuition amounts shall not be less than the average tuition amount charged to La. residents attending historically black colleges and universities in other SREB states.

2. Relative to the tuition increase authority granted to institutions entering into performance agreements, requires that the incremental tuition and fee amounts be weighted so that the median household income in SREB states with peer institutions is compared with the median household income in La. and any differences between the average be factored into the increase.
3. Adds provisions requiring institutions that enter agreements to report specified organizational data to the Board of Regents, the legislative auditor, and the legislature.
4. Relative to further tuition increases once the average tuition of peer institutions is met, changes from authority to increase tuition by 5% annually or by the Higher Education Price Index, whichever is greater to authority to increase tuition as needed to maintain rates approximately equal to the peer institution average.
5. Specifies that potential exceptions from procurement and construction regulations do not include exceptions from the La. Procurement Code nor laws relative to letting contracts for public works; nor do they include letting design-build contracts unless such is specifically authorized by the legislature.
6. Adds provisions requiring approval of agreement renewals by the Joint Legislative Committee on the Budget and the legislature as a whole.